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5 Attorneys for Defendant BANK OF THE WEST
 6

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 ELAINE NEISWENDER,
 11 Plaintiff,

12 v.

13 BANK OF THE WEST, ROBERT O. BABA
 14 JR., CHRISTOPHER MC NEIL, DDS, and
 DOES 1 to 10,

15 Defendants.

16 C 05 01971

17 CASE NO.
 CASE NO. SCV 236538 (Sonoma County)

18 DECLARATION OF MARTIN H. ORLICK
 IN SUPPORT OF DEFENDANT BANK OF
 THE WEST'S NOTICE OF REMOVAL OF
 ACTION PURSUANT TO 28 U.S.C. § 1441

19 FEDERAL QUESTION JURISDICTION,
 DIVERSITY JURISDICTION

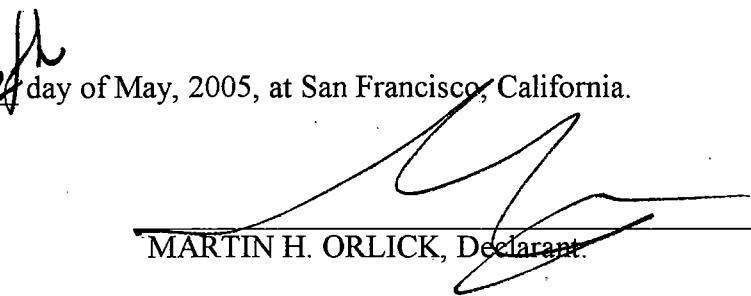
20 Complaint Filed: April 8, 2005
 Trial Date: None Set

21 I, Martin H. Orlick, hereby declare:

22 1. I am a member of the State Bar of California and of Jeffer, Mangels, Butler &
 23 Marmaro LLP, attorneys for Defendant BANK OF THE WEST (the "Bank"). The matters stated
 herein are true and correct to the best of my personal knowledge, except as to those matters stated
 on information and belief, and as to those matters I believe them to be true. If called as a witness to
 testify, I could and would competently testify thereto.

24 2. Less than thirty (30) days before the filing of this Notice of Removal, the
 25 Bank was served with Plaintiff Elaine Neiswender's ("Plaintiff") Complaint in the current action
 26 that was filed in the Superior Court for the County of Sonoma, Case No. SCV 236538. A true and
 27

1 correct copy of Plaintiff's Complaint is attached hereto as **Exhibit A**. In her Complaint, Plaintiff
2 alleges the Bank violated the Americans with Disabilities Act of 1990 ("ADA") and seeks
3 Injunctive and monetary relief under the Unruh Civil Rights Act, the Disabled Persons Act, the
4 California Health and Safety Code and the ADA, based on alleged ADA violations.

5 I declare under penalty of perjury, under the laws of the State of California that the
6 foregoing is true and correct. 

7 Executed on this 12th day of May, 2005, at San Francisco, California.

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10 MARTIN H. ORLICK, Declarant
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EXHIBIT A

ENDORSED
FILED

1 LAW OFFICES OF NICK V. AVTONOMOFF
2 Nick V. Avtonomoff, Esq. (State Bar #63713)
3 P.O. Box 2471
4 Mill Valley, CA 94942
5 (415) 380-0772; Fax (415) 388-2161
6 Attorney for Plaintiff

APR - 9 . 2005

SUPERIOR COURT
OF CALIFORNIA
COUNTY OF SONOMA

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SONOMA, UNLIMITED JURISDICTION

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10
11 ELAINE NEISWENDER,

12 Plaintiff,

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14 BANK OF THE WEST, ROBERT O. BABA
15 JR., CHRISTOPHER MC NEIL, DDS,
16 and DOES 1 TO 10,

17 Defendants,

18
19 SOV236538

COMPLAINT

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21
22 COMPLAINT FOR PRELIMINARY/
23 PERMANENT INJUNCTION RELIEF
24 AND DAMAGES; DENIAL OF
25 CIVIL RIGHTS AND PUBLIC
FACILITIES TO HANDICAPPED
PERSONS, (CIVIL CODE 51,
ET SEQ.); HEALTH AND SAFETY
CODE, SECTION 19955-19959)

NO FEDERAL VIOLATIONS PLED

26 Plaintiff, ELAINE NEISWENDER, complains of defendant(s), BANK OF
27 THE WEST, ROBERT O. BABA, JR., CHRISTOPHER MC NEIL, DDS
28 (Hereinafter referred to as "DEFENDANT(s)") and DOES 1 to 10, as
follows:

1 INTRODUCTION

2

3 1. Plaintiff, **ELAINE NEISWENDER** is a physically disabled adult as
4 defined by 42 U.S.C., Section 12101(1), and as incorporated and
5 adopted by California Civil Code, Section 51, Unruh Civil Rights
6 Act, and as more fully described in paragraph 14. Plaintiff is a
7 person who has: [1] a "physical or mental impairment that
8 substantially limits one or more...major life activities;" [2] has
9 a "record of such impairment;" or [3] "is regarded as having such
10 impairment." She has been the victim of a serious automobile
11 accident, received numerous fractures of the spine and suffered
12 brain injury. She is very unstable in her gait, is prone to
13 falling, and requires the use of a cane, and/or a walker,
14 wheelchair, or assistance from another person. She has received
15 disability status by the Social Security Administration and the
16 State of California. Plaintiff has been granted, possesses and
17 uses a disability parking placard.

18

19 2. There are other disabled persons who have complained of the
20 inaccessibility of defendants' place of public accommodation and
21 may join as plaintiff(s) at some future time.

22

23 3. Defendant(s) own(s) and, or operates **business(s) and places of**
24 **public accommodation** coming within Title 24 of the California
25 Building Code. Said **businesses** are in locations as more
26 **specifically set forth below in CAUSES OF ACTION, THIRD THROUGH**

1 FIFTH, and are places of public accommodation.

2
3 4. Plaintiff, upon due diligence, is informed and believes, and on
4 such information and belief alleges, that **defendant(s) OWN THE REAL**
5 **PROPERTY** as identified in **CAUSES OF ACTION THIRD THROUGH FIFTH** and
6 on which they conduct their business(s). Plaintiff will seek to
7 amend her complaint to include all additional defendants, including
8 real estate owners, lessors, lessees, contractors, architects,
9 agents and employees when discovered.

10
11 5. On information and belief, plaintiff(s) allege that defendants
12 were, and continue to be, in violation of state disability access
13 codes and regulations as more fully set forth below, attached and
14 incorporated by reference, and set forth in **CAUSES OF ACTION FIRST**
15 **THROUGH FIFTH**.

16
17 6. Said failures are in violation of State law, including, but not
18 limited to, The California Disabled Rights Acts, Section 51, et
19 seq. of the Civil Code of California. In addition, defendant(s)
20 are in violation of each and every deviation from the California
21 Accessibility Regulations and Interpretations for Public
22 Accommodations, California Title 24. Specifically, but not limited
23 to, violations to be discovered upon discovery, not specifically
24 identified in this Complaint, and **as set forth in CAUSES OF ACTION**
25 **THIRD THROUGH FIFTH**.

26
27 7. As a result, plaintiff has suffered damages, and will seek an

1 injunction as required by law. Plaintiff also seeks recovery of
2 statutory compensation for her damages, including the personal
3 injury, humiliation, embarrassment, emotional distress of
4 plaintiff(s), punitive damages, and the recovery of attorney fees,
5 multipliers, expenses, and costs.

6
7 8. The buildings and businesses as identified below are each a
8 "public accommodation or facility" subject to the requirements of
9 California Health & Safety Code, Section 19955 et. seq., and of the
10 California Civil Code, Section 54, et. seq. Such facilities have,
11 since July 1, 1970, undergone "alterations, structural repairs, or
12 additions" subjecting each such facility to disabled access
13 requirements per Section 19959 of the Health & Safety Code.
14 Plaintiffs allege, on information and belief, that said facilities
15 underwent alterations and changes in use after the July 1, 1982
16 effective date of Title 24 of the California Code of Regulations,
17 yet also failed to concurrently provide the access for disabled
18 persons required by Title 24 and other provisions of California
19 law.

20
21 9. Plaintiff is informed and believe that each of the defendant(s)
22 herein, including DOES 1 to 10, inclusive, is the agent, ostensible
23 agent, alter ego, master, servant, lessor, lessee, employer,
24 employee, representative, trustor, trustee, landlord, tenant,
25 franchiser, franchisee, joint venturer, parent, wholly owned
26 subsidiary, related entity, partner, and/or associate, or such
27 similar capacity, of each of the other defendant(s), and was at all

1 times acting and performing, or failing to act or perform, within
2 the course and scope of his/her/or its authority in such similar
3 aforementioned capacities, and with the authorization, consent,
4 permission or ratification of each of the other defendants, and is
5 legally responsible in some manner for the events and happenings
6 herein referred to, and in proximately causing the violations and
7 damages to plaintiff(s) complained of herein.

8
9 10. Plaintiff will seek leave to amend this Complaint when the true
10 names and capacities, connections, and responsibilities of
11 defendant(s), and each of them, are ascertained. Plaintiff further
12 alleges that the acts and omissions of each defendant named herein
13 were carried out pursuant to, and as a part of, a joint venture
14 and common enterprise participated in by one or more of the other
15 defendant(s).

16
17 11. Within the appropriate statute of limitations prior to the
18 filing of this action, and on subsequent times thereafter, and at
19 such times when such acts would have constituted a futile gesture,
20 plaintiff attempted to use the facilities, goods and services, but
21 was unable to do so because of the barriers set forth and
22 identified below. There are other factual disclosures that will be
23 provided upon reasonable discovery. Said denial by defendants to
24 allow plaintiff reasonable access are in violation of law.

25
26 12. Plaintiff alleges, on information and belief, that defendants
27 also denied "full and equal access" to disabled persons in other

1 aspects at their facilities, and will amend this complaint, if
2 necessary, according to proof, and upon the opportunity for a full
3 site inspection and further discovery.

4

5 **FIRST CAUSE OF ACTION**

6 **DAMAGES FOR DENIAL OF FULL AND EQUAL ACCESS TO A
PUBLIC ACCOMMODATION: INACCESSIBLE PUBLIC FACILITIES
(19955 et. seq. Health & Safety Code, 51, et seq. Civil Code)**

7

8 13. Plaintiff alleges, and incorporates by reference, as if fully
9 set forth again herein, paragraphs 1 through 12 of this Complaint.

10

11 14. Plaintiff is "person with a disability" or "physically
12 handicapped person" (hereinafter, the words "physically
13 handicapped" and "physically disabled" are used interchangeably as
14 these words have similar or identical common usage and legal
15 meaning, but the legislative scheme in Part 5.5 Health & Safety
16 Code uses the term "physically handicapped persons", and the Unruh
17 Civil Rights Act, Sections 51 and 52 of the California Civil Code
18 and other statutory measures which refer to the protection of the
19 rights of "individuals with disabilities").

20

21 15. Plaintiff, and other similarly situated physically disabled
22 persons who are disabled, was, and is, unable to use the identified
23 public facilities on a "full and equal" basis unless each such
24 facility is in compliance with the provisions of the Health and
25 Safety Code, Section 19955 et. seq. Plaintiff is a member of that
26 portion of the public whose rights are protected by the provisions
27 of 19955 et. seq. Health and Safety Code. The acts and omissions

28

1 of defendants complained of herein were committed in the COUNTY OF
2 SONOMA, State of California.

3
4 16. Section 19955 of the Health and Safety Code was enacted "to
5 ensure that public accommodations or facilities constructed in this
6 state with private funds adhere to the provisions of Chapter 7
7 (commencing with Section 4450) of Division 5 of Title 1 of the
8 Government Code". Title 24, California Code of Regulations,
9 formerly known as the California Administrative Code, was in effect
10 at the time of each "alteration, structural repair or addition"
11 which, on information and belief, occurred at such public facility
12 since July 1, 1982, thus requiring access complying with the
13 specifications of Title 24 whenever each such "alteration,
14 structural repair or addition" is carried out, or a change in
15 occupancy occurs. Title 24 imposes additional access requirements
16 with which defendants have not complied, including additional
17 requirement for accessible restrooms which serve the areas of
18 alteration. On information and belief, alterations which
19 additionally triggered access requirements also occurred between
20 July 1, 1970 and July 1, 1982, and required access pursuant to the
21 A.S.A. (American Standards Association) Regulations then in effect.

22
23 Further, even if there had been no "trigger" event, Civil Code
24 Section 51, et seq. requires that the defendant must come into
25 compliance if such compliance is readily achievable. Plaintiff
26 alleges that the compliance requested herein is readily achievable.
27

1 17. As a result of the denial of equal access to the facilities
2 due to the acts and omissions of defendants in owning, operating,
3 constructing, altering, and maintaining the subject facility,
4 plaintiff suffered a violation of Civil Rights, including, but not
5 limited to, rights under Sections 51, et seq, of the Civil Code,
6 and suffered physical injury, discomfort, pain, mental and
7 emotional shock, distress, embarrassment and humiliation, all to
8 her damages. Defendants' actions and omissions to act constituted
9 discrimination against plaintiff on the sole basis that she was
10 physically disabled and unable, because of the violations created
11 by the defendants, to use the facilities on a full and equal basis
12 as other persons. Plaintiff also seeks trebling of all actual
13 damages, general and special, as provided by Section 54.3 of the
14 Civil Code. Claimed damages are not limited to treble damages, but
15 include all damages, including punitive damages, allowable by law.

16
17 18. As a result of defendants' acts and omissions in this regard,
18 plaintiff has been required to incur litigation expenses, costs and
19 attorney fees, as provided by statute, in order to enforce
20 plaintiff's rights and to enforce provisions of the law protecting
21 access for disabled persons and prohibiting discrimination against
22 disabled persons. Plaintiff therefore seeks recovery of all
23 reasonable attorney's fees and costs, including multipliers,
24 pursuant to the provisions of Section 54.3 of the Civil Code and
25 case law. Additionally, plaintiff's lawsuit is intended not only
26 to obtain compensation for damages to plaintiff, but also to
27 require that those of the defendants who own, operate or

1 lease the building, make their facilities accessible to all
2 disabled members of the public, justifying an award of "public
3 interest" attorney's fees, litigation expenses and costs pursuant
4 to the provisions of Section 1021.5 of the Code of Civil Procedure.

5
6 19. On information and belief, the acts and omissions of defendants
7 is further evidenced by defendants' failure to provide
8 accessibility despite the fact that defendants knew, or should have
9 known that they were denying plaintiff's civil rights, and
10 defendants continued illegal conduct. Defendants' refusals to
11 provide accessibility so that these facilities could properly be
12 used by disabled persons, evidence oppression, fraud and implied
13 malice toward plaintiff and other disabled persons, and constitute
14 despicable acts and omissions carried out by defendants with a
15 conscious disregard for the rights and safety of plaintiff and of
16 other disabled persons, and justify exemplary and punitive damages
17 pursuant to Section 3294 of the California Civil Code, in amounts
18 sufficient to make an example of defendants, according to proof.

19

20 **SECOND CAUSE OF ACTION**

21 **INJUNCTIVE RELIEF**

22 (Government Code, Section 4450)

(Health & Safety Code, Section 19953)

(Civil Code, Section 55)

23 20. The acts and omissions of the defendants who currently own,
24 operate, or lease the subject building and businesses, as
25 complained of herein, are continuing on a day by day basis to have
26 the effect of wrongfully excluding plaintiff and other members
27 of the public who are physically disabled from full and equal

1 access to the facility. Such acts and omissions were, and are, the
2 cause of humiliation and mental and emotional suffering of
3 plaintiff in that these actions continue to treat plaintiff as an
4 inferior and second class citizen and serve to discriminate against
5 her on the sole basis that she is a person with disabilities.
6 Plaintiff is unable, so long as such acts and omissions of
7 defendants continue, to achieve full and equal access to and use of
8 described public facilities. The acts of defendants have
9 proximately caused and will continue to cause irreparable injury to
10 plaintiff and other disabled persons if not enjoined by this court.

11
12 21. Wherefore, plaintiff asks this court to preliminarily and
13 permanently enjoin any continuing refusal by those of the
14 defendants which currently own, operate, or lease the subject
15 premises, to grant such access to plaintiff, and to require such
16 defendants to comply forthwith with the applicable statutory
17 requirements relating to access for the disabled. Such
18 injunctive relief is provided by Government Code, Section 4450 et
19 seq.; Section 19953 of the Health and Safety Code; and, California
20 Civil Code, Section 55, all as hereinafter prayed.

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23 CAUSES OF ACTION
24 THIRD THROUGH FIFTH
25 ARE ATTACHED HERETO, AND INCORPORATED BY REFERENCE HEREIN
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1 Wherefore, plaintiff(s) pray for relief as hereinafter stated:

2

3 PRAYER

4

5 1. General and compensatory damages in an amount within the
jurisdiction of the Superior Court;

6 2. Statutory and general damages according to proof, including,
but not limited to, minimum damages in the sum of \$4,000 per
plaintiff, per occurrence, as provided by California Civil Code,
Section 52;

7 3. Punitive and exemplary damages in an amount sufficient to deter
such wrongful conduct and make an example of defendant(s), pursuant
to 3294 Civil Code and such other authority as provided by law;

8 4. For Attorney fees pursuant to 54.3 and 55 Civil Code, including
multipliers, Section 19953 of the Health and Safety Code, and
Section 1021.5 of the California Code of Civil Procedure;

9 5. For injunctive relief prohibiting operation of the public
facility, as a place of public accommodation, until defendants
provide full and equal access to disabled persons, and requiring
that such access be immediately provided;

10 6. For all costs of suit and litigation expenses;

11 7. For pre-judgement interest pursuant to 3291 Civil Code;

12 8. Such other and further relief as the court may deem just.

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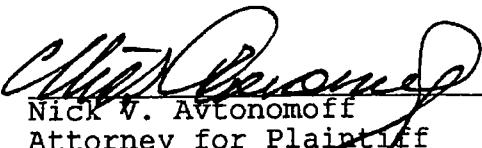
24

25 Dated: April 1, 2005

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Nick V. Avtonomoff
Attorney for Plaintiff

THIRD CAUSE OF ACTION SPECIFIC VIOLATIONS:

BANK OF THE WEST, 6661 FRONT STREET, FORESTVILLE, CA

23. Plaintiff, **ELAINE NEISWENDER**, incorporates by reference all paragraphs as set forth herein.

24. Plaintiff(s), on information and belief, allege that defendant(s) **BANK OF THE WEST**, owns and/or operates a bank, located at **6661 FRONT STREET, FORESTVILLE, CA.** Said bank and common areas were, and continue to be, in violation of state disability access codes and regulations, including, but not limited to, the following:

A. There are parking spaces available for the customers of the bank. It appears that, at one time, one parking space was dedicated as a disabled, van accessible, parking space. However, for an extended period of time, believed to be for many years, this one parking space has been intentionally modified, altered, changed and adulterated so that whatever space there may have once been is now totally out of compliance, confusing, not functional and dangerous.

B. Title 24, CCR, Section 1129, et. seq., requires that at least one van-accessible parking stall be provided for the first 25 available stalls, and one each accessible parking stall for each parking stall after the first 25;

C. Defendant(s) is strictly required by law to have, at least, one van-accessible parking space. In fact, defendant has no disabled parking spaces as required by law.

1 D. Plaintiff, **ELAINE NEISWENDER**, has specifically, and on
2 numerous occasions, and over several months and years, complained
3 of the parking situation, but nothing has been done. **ELAINE**
4 **NEISWENDER**, and other persons with disabilities, have been damaged
5 on numerous occasions, offences and occurrences within the
6 definition of California Civil Code, Section 51, et. seq.
7 Plaintiff is entitled to damages, pursuant to California Civil Code
8 52(a) to a minimum of \$4,000 "for each offense." Plaintiff alleges
9 that she has been a victim of discrimination on a continual and
10 ongoing basis for the past 2 years and is entitled to damages for
11 numerous and separate offenses according to proof;

12 E. There is no signage as required by law. Any existing
13 signage at all is inadequate, does not conform to existing codes
14 and regulations, and, or has been intentionally and improperly
15 modified, changed, adulterated, and is worn and is woefully and
16 obviously out of maintenance.

17 F. The disability access violations as set forth above are
18 not necessarily intended to specifically limit or identify all
19 violations.

20
21 Plaintiff(s) reserve the opportunity to amend, alter, modify or add
22 to defendant(s)' disability access violation(s) based on omission,
23 inadvertence, discovery or a formal site inspection.

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**FOURTH CAUSE OF ACTION
SPECIFIC VIOLATIONS:**

ROBERT O. BABA, JR., 6631 FRONT STREET, FORESTVILLE, CA

23. Plaintiff, **ELAINE NEISWENDER**, incorporates by reference all paragraphs as set forth herein.

24. Plaintiff(s), on information and belief, allege that defendant(s) **ROBERT O. BABA, JR.**, owns and/or operates a hardware store, located at **6631 FRONT STREET, FORESTVILLE, CA.** Said hardware store and common areas were, and continue to be, in violation of state disability access codes and regulations, including, but not limited to, the following:

A. There are parking spaces available for the customers of the hardware store. It appears that, at one time, one parking space was dedicated as a disabled, van accessible, parking space. However, for an extended period of time, believed to be for many years, this one parking space has been intentionally modified, altered, changed and adulterated so that whatever space there may have once been is now totally out of compliance, confusing, not functional and dangerous.

B. Title 24, CCR, Section 1129, et. seq., requires that at least one van-accessible parking stall be provided for the first 25 available stalls, and one each accessible parking stall for each parking stall after the first 25;

C. Defendant(s) is **strictly** required by law to have, at least, one van-accessible parking space. In fact, defendant has no disabled parking spaces as required by law.

1 D. Plaintiff, **ELAINE NEISWENDER**, has specifically, and on
2 numerous occasions, and over several months and years, complained
3 of the parking situation, but nothing has been done. **ELAINE**
4 **NEISWENDER**, and other persons with disabilities, have been damaged
5 on numerous occasions, offences and occurrences within the
6 definition of California Civil Code, Section 51, et. seq.
7 Plaintiff is entitled to damages, pursuant to California Civil Code
8 52(a) to a minimum of \$4,000 "for each offense." Plaintiff alleges
9 that she has been a victim of discrimination on a continual and
10 ongoing basis for the past 2 years and is entitled to damages for
11 numerous and separate offenses according to proof;

12 E. There is no signage as required by law. Any existing
13 signage at all is inadequate, does not conform to existing codes
14 and regulations, and, or has been intentionally and improperly
15 modified, changed, adulterated, and is worn and is woefully and
16 obviously out of maintenance;

17 F. There is a curb of approximately 3-4" with presents a
18 barrier obstructing the path of travel to the hardware store.
19 Where there may be a path of travel from the parking area to the
20 hardware, defendant has intentionally and continually blocked that
21 path of travel with items for sale, such as wheelbarrows, carts,
22 garden tools, large and heavy bags of soil, and other items for
23 sale to public and placed on the sidewalk for public display,
24 thereby using the sidewalk intended to be used safely by persons
25 with disabilities for his own profit and causing a very dangerous
26 situation;

27

28

1 G. Once inside of the hardware store, the isles are narrower
2 than allowed by law and are often cluttered with goods for sale and
3 displays which present barriers;

4 H. Plaintiff is informed and believes that the hardware
5 store's counters heights are higher than allowed by law and
6 regulations(s);

7 I. The disability access violations as set forth above are
8 not necessarily intended to specifically limit or identify all
9 violations.

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11 Plaintiff(s) reserve the opportunity to amend, alter, modify or add
12 to defendant(s)' disability access violation(s) based on omission,
13 inadvertence, discovery or a formal site inspection.

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**FIFTH CAUSE OF ACTION
SPECIFIC VIOLATIONS:**

CHRISTOPHER MC NEIL, DDS, 6625 FRONT STREET, FORESTVILLE, CA

4 23. Plaintiff, ELAINE NEISWENDER, incorporates by reference all
5 paragraphs as set forth herein.

6 24. Plaintiff(s), on information and belief, allege that
7 defendant(s) CHRISTOPHER MC NEIL, DDS, owns and/or operates a
8 dental office and large detached building, with parking areas in
9 front and in back, located at 6625 FRONT STREET, FORESTVILLE, CA.
10 Said dental office and parking areas were, and continue to be, in
11 violation of state disability access codes and regulations,
12 including, but not limited to, the following:

13 A. The main entrance to the dental office abuts Front Street,
14 Forestville, CA. Parking spaces are provided to the public, but
15 the main entrance to the dental office/building is inaccessible to
16 persons with disabilities because there is a barrier in the form of
17 stairs. There is another area at the rear of the dental
18 office/building which provides additional parking spaces available
19 for the customers of the dental office. It appears that there may
20 be disability access to the dental office from the rear parking
21 area, but there is no signage whatsoever, and defendant has
22 recently installed a speed bump which obstructs the path of travel
23 to the dental office and presents an intentional, dangerous, man
24 made barrier. There are no accessible parking spaces;

25 B. Title 24, CCR, Section 1129, et. seq., requires that at
26 least one van-accessible parking stall be provided for the first 25
27 available stalls, and one each accessible parking stall for each
28 parking stall after the first 25;

1 C. Defendant(s) is strictly required by law to have, at least,
2 one van-accessible parking space. In fact, defendant has no
3 disabled parking spaces;

4 D. Plaintiff, **ELAINE NEISWENDER**, has made inquiries regarding
5 treatment as a patient as the dental office is very close to her
6 home, but has been hesitant to become a continuing patient due to
7 access considerations and the responses she has received as a
8 result of her calling attention to the access problems. She has
9 specifically complained of the parking and access directly to
10 **CHRISTOPHER MC NEIL, DDS**, but he has stated to her that "it
11 (access) is not my problem." Nothing has been done to correct the
12 situations. **ELAINE NEISWENDER**, and other persons with
13 disabilities, has been damaged within the definition of California
14 Civil Code, Section 51, et. seq. Plaintiff is entitled to damages,
15 pursuant to California Civil Code 52(a) to a minimum of \$4,000 "for
16 each offense";

17 E. There is no signage which is contrary to the requirements
18 of law;

19 F. There is a speed bump and other violations of the law
20 which present a barrier obstructing the path of travel to the
21 dental office. Where there may be a path of travel from the
22 parking area to the dental office, **defendant has intentionally and**
23 **continually blocked that path of travel**;

24 G. The disability access violations as set forth above are
25 not necessarily intended to specifically limit or identify all
26 violations;

27

28

1 Plaintiff(s) reserve the opportunity to amend, alter, modify or add
2 to defendant(s)' disability access violation(s) based on omission,
3 inadvertence, discovery or a formal site inspection.
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